

NR 150.20 Environmental review process. The environmental review process shall apply to all actions of the department including both regulatory and department sponsored actions.

(1) DETERMINATION OF APPROPRIATE PROCEDURES. Upon the filing of an application with the department for permission to proceed with an action, and during the early planning stages on department sponsored actions, the department shall use the action type list in s. NR 150.03 to determine the minimum review process appropriate for the proposed action.

Note: Procedures required for Type III actions assure that unusual proposals or proposals in unusual situations receive the appropriate level of analysis.

(a) Type IV actions. Except as provided under s. NR 150.20 (2) (b), type IV actions do not require the EA or EIS process, do not require a news release, and are otherwise exempt from the procedural requirements of this chapter. The department may prepare and distribute an EA on the proposed action to aid department decision making if the department determines that critical resources are affected by the proposed action, or there may be substantial risk to human life, health or safety.

(b) Type III actions.

1. Except for emergency rules, type III actions require issuance of a news release or other public notification under s. NR 150.21.

2. As provided under s. NR 150.25 and s. 23.11 (5), Stats., the department may require an applicant to provide an EIR to submit additional information about the proposal.

3. Except as provided under subd. 4., type III actions do not require an EA or EIS and are exempt from the procedural requirements of ss. NR 150.22 to 150.24. The department's determination on compliance with s. 1.11, Stats., becomes final upon approval of the director of the bureau of environmental analysis and review, or his or her designee.

4. The department may require the issue identification, EA and decision stages on the EIS process under ss. NR 150.21, 150.22 and 150.24 or the full EIS process under ss. NR 150.21 to 150.24, if:

a. The department determines that the proposed action may significantly affect the quality of the human environment.

b. Scarce resources, such as critical habitat for threatened or endangered species, valued fish spawning areas, wetlands, historic, cultural, scenic or recreational areas, may be affected.

c. Substantial acute risk, to human life or health, or to significant natural resources due to failure of pollution control systems, fire or other reasonably foreseen failures at the proposed facility, may be created.

d. An EA or EIS is otherwise required under s. NR 150.20 (2) (b).

(c) *Type II actions.*

1. Type II actions require the issue identification, EA and decision procedures of the EIS process under ss. NR 150.21, 150.22 and 150.24.

2. As provided under s. NR 150.25 and s. 23.11 (5), Stats., the department may require an applicant to provide an EIR to submit additional information about the proposal.

3. If the department determines that the proposal is a major action significantly affecting the quality of the human environment, the full EIS process under ss. NR 150.21 to 150.24 is required.

(d) *Type I actions.*

1. Type I actions require the full EIS process under ss. NR 150.21 to 150.24.

2. As provided under s. NR 150.25 and s. 23.11 (5), Stats., the department may require an applicant to provide an EIR to submit additional information about the proposal.

(2) **SPECIAL CONDITIONS.**

(a) *Determination of application completeness.* Except as otherwise provided by law, an application or request for approval will not be considered complete until s. 1.11, Stats., and this chapter have been fully complied with.

(b) *Proposals involving multiple department actions.* When an EA or EIS is required for a proposal involving more than one department action, the entire project proposal including all related department actions shall be addressed in a comprehensive environmental analysis unless:

1. Statutory deadlines preclude compliance with the procedural requirements of s. 1.11, Stats., and this chapter, or

2. The department completes the environmental review process by entering a decision under s. NR 150.24, or

3. The action meets all of the following criteria:

a. The action will not limit the choice of reasonable alternatives for the remaining actions.

b. The action otherwise meets the procedural requirements of this chapter.

c. The action allows activities that have an independent utility.

d. The action does not compel implementation of the remaining actions.

e. The action does not involve impacts that may cumulatively be significant when considered with the other department actions related to the proposal.

(c) *Prior compliance.* A previous EA or EIS which meets the content and procedural requirements of this chapter and which substantially addresses the proposed department action, satisfies the requirements of this chapter except for the decision requirements under s. NR 150.24.

(d) *Revised proposals.* If a proposal which is the subject of an EA is substantially changed before or after the department reaches its final decision under s. NR 150.24, the department may revise the EA or prepare a supplement to the EA if the changes to the proposal are relevant to environmental concerns. If the public notification under s. NR 150.21 (1) contained serious errors or omissions, the department shall issue a news release under s. NR 150.21 (1) on the revised EA or supplement before issuing, reissuing or amending the decision under s. NR 150.24.

(e) *Generic EA or EIS.*

1. A generic EA or EIS may be used to assess the environmental effects of actions likely to be repeated on a recurring basis or actions which have relevant similarities such as common timing, impacts, alternatives, methods of implementation or subject matter.

2. Generic EAs require the same environmental review process as type II actions, and generic EISs require the same review process as type I actions.

3. The generic EA or EIS shall contain the information required under s. NR 150.22. When subsequent individual project locations, time schedules and similar descriptive information are not reasonably available, the generic environmental analysis may be more general than a site specific EA or EIS. The generic environmental analysis shall specify the assumed features, characteristics, operations or other information about the project or suitable project sites. It may present and analyze in general terms several hypothetical scenarios that are likely to occur. It shall identify reasonably foreseeable conditions which indicate the need for further evaluation with a site specific EA or EIS.

4. The decision under s. NR 150.24 shall be signed by the director of the bureau of environmental analysis and review or designee, and specify conditions or criteria of subsequent individual proposals which are adequately evaluated by the generic EA or EIS process. The decision may also specify criteria for proposals which require further evaluation with a project specific EA or EIS.

5. Subsequent individual proposals that satisfy the criteria established in the decision under subd. 4. may satisfy the requirements of this chapter following completion of a public notification process similar to a type II action and completion of a project specific decision under s. NR 150.24. The notice and decision under subds. 2. and 4. satisfy the requirements of this subdivision for subsequent proposals at locations identified in the generic analysis, notice and decision under subds. 2. and 4.

6. The department may prepare supplements to a generic EA or EIS under par. (d) or s. NR 150.22 (4) and reconsider the decision under subd. 4. to evaluate substantial new information about project impacts, operations or other factors.

(f) *Interagency procedures on proposed actions involving NEPA or WEPA.*

Note: Whenever practical, the department will jointly prepare environmental analyses with other agencies who also would prepare an EA or EIS. This should reduce duplication and delay, and assure the full consideration of environmental effects.

1. The department may conduct an environmental review process jointly with another state, federal or local agency. The joint process shall meet the requirements of this chapter. The level of department participation shall be commensurate with the department's authority and the significance of the proposed project's impact on the department's area of responsibility. For actions requiring an EA, the department shall make an independent determination on the need for an EIS.

2. The department may adopt an environmental analysis prepared by another agency as the department's EA on the proposal if the environmental analysis meets the requirements of s. NR 150.22. The department shall notify the public as required under s. NR 150.21 for an EA, and enter a decision on the proposal under s. NR 150.24.

3. When the department determines that a proposed action will require an environmental analysis and that the proposed action will involve one or more state, federal or local agencies, the lead agency may be determined through interagency consultation. A written agreement may be developed with those agencies which have a major responsibility in or are significantly affected by the proposed action. The written agreement will define the responsibility of each agency in the development of a single EIS on the proposed action and will outline the procedures to be used in the regulatory process.

(g) *Compliance with s. 1.11 (2) (e), Stats.*

1. For any department action which involves unresolved conflicts concerning alternative uses of available resources, the department shall study, develop and describe appropriate alternatives to recommended courses of action through one or more of the following mechanisms:

a. For Type I or II actions, preparation of an EA or EIS in accord with this section.

b. For all department actions, holding an informational meeting or a hearing under another statute or rule in which problems relating to conflicting uses of resources are discussed and in which participants have the opportunity to discuss alternative courses of action and where the department considers the hearing testimony or meeting results in its decision.

2. Unless the department determines otherwise, department actions listed as Type III or IV